

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION
Plaintiffs :
v. :
GOVERNOR MARK SCHWEIKER, et al., :
Defendants : NO. 02-CV-2949

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

House Judiciary Subcommittee on
Crime and Corrections

HEARING ON INMATE ESCAPE
OCTOBER 14, 1999

Testimony of Martin Horn, Secretary of Corrections
and
Robert Stewart, District Attorney of Huntingdon County

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HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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Hearing on Inmate Escape

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House Judiciary Subcommittee
on Crime and Corrections

State Correctional Institution
1100 Pike Street
Huntingdon, Pennsylvania

Thursday, October 14, 1999 - 9:05 a.m.

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BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable James Harold, Minority Chairperson
Honorable Kathy Manderino

IN ATTENDANCE:

Honorable Larry Sather
Honorable Babette Josephs
Honorable Donald Walko

COPY

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1 ALSO PRESENT:

2 Brian Preski, Esquire
3 Majority Chief Counsel

4 Michael Rish
5 Minority Executive Director

6 Cathy Hudson
7 Minority Committee Secretary

8 Susan Thomas
9 Executive Secretary for Representative Blaum

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1 CHAIRPERSON BIRMELIN: I'd like to
2 have your attention for a minute and then we can
3 get started. I want to welcome you this morning
4 to the Pennsylvania House of Representatives
5 Subcommittee on Crime and Correction's hearing
6 and we are today discussing and receiving
7 testimony on an event that occurred here at
8 SCI-Huntingdon on August the 2nd of this year,
9 the escape of an inmate named Norman Johnston.

10 We have a rather full agenda that's
11 going to keep us busy perhaps through 12:30 or
12 one o'clock today. I'm going to do my best to
13 make sure that those who are testifying are
14 testifying on time and have the opportunity to
15 answer questions during their time -- If any of
16 you are interested in an agenda, we have some up
17 here on the front table and you may feel free to
18 help yourselves. Try not to block the camera
19 angles if you would, please.

20 I'm Representative Birmelin. I come
21 from Wayne and Pike Counties, and I'm the
22 Chairman of the Subcommittee, and I will ask the
23 members and staff who are with me today if
24 they'll introduce themselves, starting with my
25 far right.

1 REPRESENTATIVE MANDERINO: Kathy
2 Manderino from Philadelphia County.

3 REPRESENTATIVE SATHER: Larry Sather
4 from the 81st District of Huntingdon and
5 Northern Blair.

6 REPRESENTATIVE WALKO: Don Walko,
7 Pittsburgh.

8 REPRESENTATIVE JOSEPHS: Babette
9 Josephs, Philadelphia County.

10 MR. RISH: I'm Mike Rish, staff for
11 the Democratic Judiciary Committee.

12 MR. PRESKI: Good morning. Brian
13 Preski, Chief Counsel for the committee.

14 CHAIRPERSON BIRMELIN: We do have at
15 least one other member who will be here and
16 maybe others, and as they are arriving I will do
17 my best to introduce them so that you in the
18 audience know who everybody is.

19 Without further ado, I'll ask the
20 first testifiers to come forward and to present
21 their testimony for us. The Secretary of
22 Corrections for Pennsylvania is Martin Horn and
23 he is going to be testifying this morning along
24 with Frederick Frank, who's the superintendent
25 here at SCI-Huntingdon.

1 Gentlemen, we welcome you and we
2 know that you have prepared written remarks. I
3 would also suggest for the members of the
4 audience who are interested in the Secretary's
5 remarks, we do have some extra copies. If
6 you'll see the gentleman waving to the right
7 over here, he can give you a copy of those
8 prepared remarks.

9 Secretary Horn, we welcome you here
10 today and Superintendent Frank. It's my
11 understanding, Secretary Horn, you're going to
12 begin and you may do so when you're ready.

13 SECRETARY HORN: Thank you, very
14 much, Chairman Birmelin, and members of the
15 committee. I have a prepared statement. I've
16 amended it from my spoken remarks, and I'll try
17 and abbreviate them for you.

18 Mr. Chairman, members of the
19 committee: I appreciate the opportunity to
20 appear before you to review the escape of Inmate
21 Norman Johnston from SCI-Huntingdon on August 2,
22 1999. Johnston was committed to the Department
23 to serve four consecutive life sentences and a
24 consecutive 12 and a half to 25-year sentence
25 for criminal conspiracy and aggravated assault.

1 It was the clear intention of the
2 Commonwealth that he never be allowed to walk
3 the streets again. That he was able to escape
4 from a restricted housing unit in a maximum
5 security prison represents a substantial failure
6 of SCI-Huntingdon and my department to fulfill
7 its most fundamental responsibility to securely
8 confine the inmates committed to it.

9 He was able to succeed because
10 certain staff, in violation of clear Department
11 policy, allowed themselves to be used by this
12 inmate. He was clever enough to organize a ring
13 of confederates who maintained strict silence
14 and aided him in securing escape implements.
15 The Department through the years had accorded
16 preferential treatment to legal mail.

17 Staff in the housing unit where he
18 was confined did not perform their duties in a
19 thorough and effective manner. A design flaw in
20 the construction of the housing unit allowed him
21 to conceal his activities. Changes made to the
22 construction of SCI-Huntingdon in previous years
23 had compromised the original structural
24 integrity of the facility; and, certain
25 management staff and middle management staff

1 failed to fulfill their responsibilities in
2 certain areas to ensure that department
3 procedure was being followed and that good
4 security practices were utilized.

5 For many years, until the Camp Hill
6 Special Management Unit and SCI-Greene opened,
7 Huntingdon was the end of the line in the
8 corrections system, housing the most
9 intransigent and dangerous inmates. The
10 building from which Johnston escaped, G Block,
11 is the Restricted Housing Unit. This unit
12 houses inmates in disciplinary custody for
13 violating institutional rules and administrative
14 custody inmates held in restricted housing for
15 protection, investigation, or other security
16 reasons.

17 When G Block was built in 1991, it
18 was deemed to be the most secure housing unit at
19 Huntingdon. The building was believed to be
20 more than adequate security for RHU inmates
21 because the construction of the building itself
22 provides high security without secondary
23 perimeters.

24 Before G Block was built, RHU
25 inmates were confined in B Block. B Block is

1 one of the facility's original housing units,
2 and given its age, the mortar between the blocks
3 had begun to deteriorate. In May 1984, two
4 inmates were found to have cut their cell door
5 bars in an escape attempt. Approximately three
6 months before that, two inmates were discovered
7 out of their cells.

8 Before 1993, inmates broke through
9 the mortar of the brick walls in D Block, a
10 similar block, and gained access to the pipe
11 chase and from there exited to the basement.
12 Consequently, the RHU was moved to G Block,
13 although B Block continued to be utilized as
14 extra restricted housing cell space when there
15 were more inmates than could be accommodated
16 in G.

17 Because RHU inmates are segregated
18 from contact with general population, are
19 searched frequently, and are always handcuffed
20 and escorted during any movement, it was
21 believed that G Block and its construction would
22 provide adequate security for them.

23 Johnston was confined to the G Block
24 RHU since August 14, 1998, when he was charged
25 with attempting to convey a legal brief, which

1 had been carved out and which contained six bags
2 of marijuana and a security screwdriver tip, to
3 another inmate in the RHU. And I have a -- I
4 actually have that legal brief and the cutout
5 here with me today for the committee to take a
6 look at, and you can bring it up and you might
7 want to pass it around, take a look at it. Ten
8 days later on August 24, 1998, Johnston
9 attempted to obtain four nails concealed in a
10 tube of toothpaste. This was intercepted and he
11 received a misconduct report for this
12 contraband.

13 Johnston was able to escape because
14 he was able to defeat the physical security of
15 the G Block structure. He did this by gaining
16 access to two implements, both of which were
17 required for this escape to be successful.

18 First, he needed to obtain a
19 screwdriver implement capable of unfastening the
20 screws which held the wire mesh security screen
21 covering the window. Secondly, he needed to
22 obtain something with which to cut through the
23 bar that subdivided the 12-inch-wide window.
24 Without either one of these items he could not
25 have successfully escaped.

1 While there were other lapses that
2 contributed to his ability to escape, the most
3 fundamental reason why this escape occurred was
4 his access to these items.

5 These items were probably introduced
6 into the facility concealed in legal materials
7 mailed to other inmates, not to Johnston.
8 Johnston himself was found guilty of misconduct
9 a year earlier for attempting to smuggle just
10 such a legal brief with a security screwdriver
11 tip concealed in it to another inmate, perhaps
12 in an effort to begin the escape process then.

13 Our investigation indicates that
14 neither of these items were obtained from
15 facility inventory. Facility tool control
16 practices were sound and were followed, and the
17 inventory was correct. A piece of a blade,
18 either from a hacksaw or a mechanical saw, was
19 found near the fence through which Johnston
20 exited the facility, and it wasn't from the
21 facility inventory. Therefore, we do not
22 believe that these items were introduced into
23 the facility by staff smuggling them in or by
24 theft from facility inventories.

25 Once these items were inside the

1 facility, Johnston utilized one of several
2 methods to get them delivered to him in RHU. It
3 is possible that other inmates carried these
4 items into the RHU on their persons or concealed
5 in body cavities when they themselves were
6 placed in the RHU. In addition, other inmates
7 could have delivered items when they entered the
8 RHU to perform work such as cleaning or
9 barbering.

10 More likely, however, Johnston
11 relied on staff. Officer Ezequiel Ruiz admitted
12 to us that he has been delivering items to
13 inmates in the RHU from general population and
14 between RHU inmates for more than three years.
15 Inmates involved in the delivery of this
16 contraband have corroborated his statement.

17 Office Ruiz admitted that he made
18 numerous deliveries, 12 to 18 of which were made
19 to Johnston while he was confined within the
20 RHU. He told us he believed that he was
21 delivering coffee, cigarettes or tobacco,
22 written and oral messages, magazines and loose
23 papers, but he admits he never checked. An
24 inmate from whom he obtained these items has
25 told us that when Johnston's associates wanted

1 to get contraband to Johnston in the RHU they
2 would give it to this inmate, and he gave it to
3 Ruiz for delivery.

4 Officer Ruiz was regularly assigned
5 to work in the RHU. He often visited even when
6 it was not his assignment. He denies receiving
7 payments for the delivery, but an inmate has
8 told us that Johnston would give Ruiz 50 dollar
9 bills, quote, just to keep him happy, closed
10 quote. We have also been told that Ruiz would
11 occasionally provide Johnston with notice of
12 cell searches and remove contraband from
13 Johnston's cell prior to the search.

14 Nurse Wendy Randolph admitted to our
15 investigators that she delivered items from
16 general population inmates to the inmates in the
17 RHU on seven occasions since December 1997,
18 including at least one delivery to Johnston.
19 She told us the deliveries were made in antacid
20 bottles given to her by inmates. Those bottles
21 contained an inmate number written on the top of
22 the bottle. She then gave the bottles to the
23 designated RHU inmates. She believed that these
24 bottles contained coffee, tobacco, or messages.
25 She, too, never checked.

1 Inmates in population would approach
2 Nurse Randolph and ask her to deliver items to
3 RHU inmates. An inmate involved in these
4 deliveries has told us that marijuana was
5 frequently packaged in the antacid bottles given
6 to Nurse Randolph for delivery. We have been
7 unable to prove conclusively that the specific
8 items used in this escape were conveyed to
9 Johnston by Officer Ruiz or Nurse Randolph.

10 The statute regarding prison
11 contraband and the statute addressing
12 facilitation of escape require that we be able
13 to prove beyond a reasonable doubt that the
14 items were delivered to Johnston by the
15 employee. For that reason, while we believe
16 this is how Johnston obtained these materials,
17 it may not be possible to obtain a criminal
18 conviction in this matter because we cannot
19 prove which employee actually delivered escape
20 implements to Johnston.

21 A design flaw in the RHU cell window
22 is that the safety mesh window screens, which
23 are designed to prevent the inmates from
24 actually breaking the glass, prevent cell block
25 officers from adequately checking the window bar

1 which is behind it and separated from the
2 outside by glass. The frame of the mesh screen
3 concealed from the view of the officer the
4 uppermost and bottom-most portions of the
5 vertical tubular impost that enabled Johnston to
6 conceal the cuts he made.

7 We believe that because he had
8 access to a security screwdriver implement,
9 Johnston was able to remove the security screws.
10 This allowed him to take the screen off at
11 night, do his cutting and then return the wire
12 mesh screen to its proper location before
13 daylight. The security screwdriver implement
14 which we believe he used has never been found.

15 A small piece of hacksaw blade,
16 approximately two inches in length, was found at
17 the exterior perimeter fence through which
18 Johnston was able to escape by making some 22
19 cuts. It was a carbide blade different from
20 those used in the facility, but similar to
21 blades that had been found in a typewriter in
22 the chaplain's office in June of this year.
23 Another inmate has been criminally charged with
24 possession of this contraband. However, prior
25 to the escape no connection was made between

1 Inmate Romansky's possession of these blades
2 outside the RHU and Johnston.

3 We believe that by using the
4 security screwdriver implement to remove the
5 wire mesh screen and the hacksaw blade to cut
6 through the seven-eighth inch diameter
7 tool-resistant steel bar in the window, Johnston
8 was able to exit his cell and defeat the
9 physical security of the building. You can give
10 this to them. This is a bar that he cut. He
11 was able to accomplish this because staff
12 allowed themselves to be used by Johnston in
13 violation of Department policy and gave him
14 access to these two necessary items.

15 His cutting of the bars should have
16 been detected during security cell inspections.
17 Department policy mandates that inmate cells be
18 checked weekly and that all security devices
19 such as bars, locks, windows, doors, and alarms
20 be inspected. The inspections are to be logged
21 and the staff member who conducted the
22 inspection are to be identified in the log.
23 Huntingdon's RHU manual mandates that all cells
24 in the RHU are to be inspected every three days
25 on a regular basis.

1 Although the log indicated that the
2 cells were checked for security on a daily basis
3 during the exercise period or every three days
4 when an inmate refused yard, no record was kept
5 regarding who checked the cell. Huntingdon's
6 records indicate that Johnston's cell was
7 checked on July 19th, 22nd, 23rd, 26th, 29th and
8 30th. However, the cutting of the bars was not
9 detected. Although the mesh screen made
10 checking the bar difficult, it was not
11 impossible. More importantly, a good inspection
12 might have revealed that the screen had been
13 tampered with.

14 Once he exited the building,
15 Johnston gained access to the area containing
16 the individual exercise units formerly utilized
17 for RHU inmates. The layer upon layer of wire
18 mesh fabric which made up these individual
19 exercise units served to partially obscure the
20 observation of the officer in Tower 3, who
21 should have otherwise been able to observe the
22 building line along which Johnston would have
23 had to move once he exited his cell.

24 Johnston, presumably using the
25 hacksaw blade, was able to cut the interior

1 fence on the back of the first individual
2 exercise unit closest to his cell and unravel
3 the fencing. This gave him access to an area
4 between that inside perimeter fence and the
5 second perimeter fence. He first turned right
6 and attempted to cut through the exterior
7 perimeter fence, which is 14 feet high and made
8 of higher gauge metal, in an area just under the
9 windows of the RHU. We found a single cut in
10 this area. We believe that he moved away from
11 this area because he feared being discovered
12 either by officers making rounds and looking
13 through the windows of the RHU, or by officers
14 in the adjacent parking lot area.

15 (Power outage occurred)

16 CHAIRPERSON BIRMELIN: Recess time
17 is over. Come on back in off the playground and
18 we'll get started again with the hearing. I
19 apologize for this. I guess we have not
20 appropriated enough money to DOC so they could
21 have adequate wiring for their visitor rooms.
22 We're going to do the best we can here.

23 SECRETARY HORN: Mr. Chairman, thank
24 you. I apologize for that, but it is an old
25 facility and was not equipped for this purpose.

1 We'll hopefully have full power restored
2 shortly.

3 Following the 1997 escape from SCI
4 Pittsburgh, the Department evaluated all of its
5 perimeters. As a result of that evaluation, we
6 identified the perimeter here at Huntingdon as
7 vulnerable. Consequently, in October 1997, a
8 capital budget project in the amount of
9 \$7.9 million was requested for security
10 improvements at Huntingdon. This included the
11 addition of a dual technology perimeter
12 intrusion system on the RHU fence. Other
13 security enhancements included a perimeter
14 intrusion detection system on the perimeter
15 wall, additional fencing with razor wire, and
16 closed circuit television video surveillance
17 monitoring.

18 An additional \$1.6 million was added
19 to the capital project for fiscal '99-2000. To
20 expedite the project, the Department allocated
21 197,000 in fiscal '98-99 operating funds for
22 perimeter intrusion detection system
23 enhancements and \$76,000 for video surveillance.
24 We did this because we felt that the upgrades
25 were too important to wait for the capital

1 budget project.

2 Prior to the escape, Huntingdon had
3 already ordered \$197,000 worth of perimeter
4 intrusion detection system enhancements,
5 including a dual detection system around the
6 original wall, the yard and E, F, and G blocks.
7 The contract was awarded prior to the escape,
8 and completion of that project is expected
9 before the end of the year.

10 To attempt this escape Johnston not
11 only had to believe that he could cut through
12 the bars undetected, but also that he could
13 absent himself from the cell for a period of
14 time without detection.

15 Huntingdon's RHU manual requires
16 that all tiers and quadrants be patrolled in
17 such a manner that all inmates in the RHU are
18 personally observed by a correctional officer at
19 least every 30 minutes, but on an irregular
20 schedule. During the required tier checks, the
21 corrections officers use a Morse watchman punch
22 station system. This is used to punch in the
23 time an officer performs a tier check. A record
24 of the punch is maintained.

25 A review of the records of this

1 system revealed disparity among the various
2 officers making the required tours. Some took
3 as long as 45 minutes to complete the check and
4 another was completed within seven minutes.
5 Despite the fact that policy requires that these
6 tours be conducted at least every 30 minutes,
7 there were several officers who did not meet
8 this standard, and in one case the interval was
9 70 minutes.

10 Department of Corrections' policy
11 requires that officers see flesh or movement for
12 an inmate to be recorded as present during a
13 count. Huntingdon's local policy requires
14 inmate counts at 1 a.m., 5 a.m., 10 a.m., 4 p.m.
15 and 9:15 p.m. daily. And while facility policy
16 and the Department policy require inmates to
17 stand for the 10 a.m., 4 p.m. and 9:15 p.m.
18 counts, Huntingdon's RHU manual only requires
19 the inmates to stand for the 10 a.m. count.
20 More importantly, we have subsequently learned
21 that it was the practice of officers in the RHU
22 not to require inmates to stand even for the
23 10 a.m. count.

24 It is clear from the events of
25 August 2, 1999 that the 5 a.m. and 10 a.m.

1 counts were faulty. No flesh or movement could
2 have been observed from Johnston. Yet, Officer
3 Corley recorded him as present for the 5 a.m.
4 count and Officer Tress recorded him as present
5 for the 10 a.m. count.

6 Subsequent investigation also
7 revealed that, despite facility policy
8 prohibiting inmates from affixing anything to
9 lights, cell walls or windows, numerous lights
10 had been altered by the inmates by covering the
11 lights, resulting in dark cells, making
12 inspection difficult. Security inspections
13 should have addressed this violation and
14 required maintenance to make repairs. However,
15 this was not done.

16 RHU staff also breached RHU
17 in-processing policies. Huntingdon's RHU manual
18 requires a thorough search of every cell prior
19 to placing an inmate in that cell, and further
20 requires that the condition of the cells be
21 recorded on a cell condition form. RHU staff
22 failed to follow this policy. Inmates were
23 placed into cells without the cells being
24 searched in advance, and there was poor
25 documentation. Consequently, it cannot be

1 determined exactly when the last search of
2 Johnston's cell was conducted.

3 Following the escape, we determined
4 that Johnston possessed an excessive number of
5 items in clear violation of policy. This
6 occurred despite the fact that there was a
7 search of the entire facility, including the
8 RHU, on December 21, 1998, and an RHU shakedown
9 conducted on March 13, 1999.

10 Had these inspections and searches
11 been conducted as required, and had the staff
12 performing them performed them in an adequate
13 fashion, the compromise of the wire mesh screen
14 and cell bar should have been detected prior to
15 the escape.

16 More importantly, however, without
17 the ability to import the hacksaw blade and
18 security screw implement into the RHU, Johnston
19 would not have been able to escape. Had the
20 officers on the block been making tier checks in
21 an acceptable fashion and conducting the count
22 in accordance with Department policy, his escape
23 certainly would have been discovered far earlier
24 than it was. Had his cell been properly
25 searched and inspected, this escape could have

1 been prevented. That these practices were
2 allowed to erode is the responsibility of middle
3 and upper management.

4 We must accept the physical
5 realities of the facility in which we inherit.
6 The Department recognized the weaknesses in the
7 Huntingdon perimeter and took reasonable and
8 prudent steps to correct them. Could the
9 Department have moved more quickly? Certainly,
10 in hindsight, I believe we should have.
11 Nonetheless, our decision to use operating funds
12 rather than capital monies indicates the urgency
13 which we assign to improving the Huntingdon
14 perimeter.

15 No doubt there was also an
16 intelligence failure of major proportions at
17 Huntingdon which allowed this escape to occur.
18 No connection was made between the discovery of
19 hacksaw blades in the facility chapel several
20 months earlier and the August 1998 discovery of
21 a security screwdriver tip in a legal brief and
22 concerns raised by the union at labor management
23 meetings about screws on security screens being
24 tampered with in the RHU.

25 Moreover, staff admitted passing

1 items to inmates on perhaps as many as 300
2 occasions, 18 of them to Johnston, and at least
3 half a dozen other inmates knew of and
4 participated in this network. This should have
5 been revealed through good investigation by the
6 facility security office. We must, however,
7 acknowledge that in the last several years the
8 workload of facility security offices has
9 increased substantially. We are reevaluating
10 the staffing in these units.

11 Escapes occur when multiple systems
12 break down and multiple members of staff fail to
13 perform their duties in the prescribed fashion.
14 This is what happened here. No single system
15 effectively guards against escape and no
16 multiple systems are entirely foolproof. The
17 escape-proof prison has yet to be built.

18 While we cannot prevent all escapes,
19 our Department is in the business of reducing
20 the possibility that an escape will occur, and
21 we do that by layer upon layer of redundancy.
22 The perimeter is our last line of defense. Good
23 prison security begins inside the facility.
24 This escape occurred primarily because staff
25 compromised their integrity, but it also

1 occurred because of the failure of physical
2 barriers and lax attitudes and complacency on
3 the part of staff beginning well inside the
4 perimeter. This was exploited by a dangerous,
5 devious and intelligent inmate.

6 We have expedited the installation
7 of video surveillance cameras. We have posted
8 additional foot patrols around the RHU. We are
9 spending substantial overtime here and elsewhere
10 to address all physical plant shortcomings, and,
11 while cost should not be determinative where
12 public safety is concerned, the total cost of
13 operating a corrections system is a matter of
14 concern to all of us. We must consider other
15 solutions.

16 Our systems are only as good as the
17 people who observe the inmates, the people who
18 maintain the facility, and the people who
19 supervise the staff within these prisons. We
20 have a sound training program, but we have to
21 recognize that these jobs are tedious and
22 oftentimes unpleasant. Staff sometimes lose
23 their focus. The challenge to prison
24 administrators is to continually energize our
25 staff, to help them to understand the importance

1 of what they do no matter how repetitive and
2 mundane it may seem.

3 The public should recognize that
4 escape happens rarely. The statistics are
5 clear. This was the first successful escape
6 from this prison in ten years. Compared to
7 comparable states, Pennsylvania has far fewer
8 escapes. Our goal is to have no escapes. The
9 public should be confident that the system is
10 overwhelmingly operated by conscientious men and
11 women who are alert and vigilant and have public
12 safety first in their minds.

13 Throughout this last year I have
14 said repeatedly, including before this body, how
15 proud I am of the 13,000 men and women of the
16 Department of Corrections. Most of them perform
17 extraordinary tasks under trying circumstances
18 for little recognition day in and day out.

19 It is not my purpose here today to
20 make excuses. Rather, I have tried to lay out
21 the facts to you as we know them, to share with
22 you my conclusions about why this escape
23 occurred, and to outline steps we have already
24 taken to prevent future escapes.

25 On behalf of the 13,000 men and

1 women of the Department of Corrections, I
2 apologize to the citizens of Huntingdon, as well
3 as to the communities in southeastern
4 Pennsylvania who were traumatized by Johnston's
5 return to their communities. With the support
6 of the Governor and the General Assembly, we
7 will continue to strive to improve the security
8 of our prisons and prevent events such as this
9 from occurring again. Thank you.

10 CHAIRPERSON BIRMELIN: Thank you,
11 Secretary Horn. I have a few questions for you.
12 And before I ask my questions, I want to share
13 with the committee members who are seated here
14 with me a couple of ground rules, if I could.
15 We've lost 20 minutes because of the power
16 outage, so I'll certainly keep that in mind as
17 we try to keep to the schedule that we have.

18 I would ask the members to make sure
19 that the questions that they ask are questions
20 that were not in writing and presented to them
21 so that we're not asking for information we've
22 already received. I'll also ask the members to
23 indicate to me ahead of time whether or not they
24 have any questions so that I don't have to ask
25 each of you if you have questions.

1 And thirdly, I would ask the members
2 to make sure that their questions are to the
3 point and to the issues that are before us and
4 not straying off into subjects that may have
5 very little to do with this particular subject
6 at hand. All that having been said, let me ask
7 you a couple questions, if I could, Secretary
8 Horn.

9 In the opening page of your
10 statement, your first sub-point says that
11 certain staff in violation of clear Department
12 policy allowed themselves to be used by this
13 inmate. Are you referring only to the two who
14 are mentioned, Ruiz and the Randolph woman, or
15 are you referring to others?

16 SECRETARY HORN: Yes, just those two
17 at this point.

18 CHAIRPERSON BIRMELIN: The people
19 who normally occupy RHU, is that a
20 representative sample of the prison population
21 as a whole in terms of what level prisoners they
22 are and/or their racial makeup?

23 SECRETARY HORN: Yes.

24 CHAIRPERSON BIRMELIN: In this
25 prison I believe it's somewhere in the

1 neighborhood of

2 60 percent minorities; is that correct?

3 SECRETARY HORN: Yes.

4 CHAIRPERSON BIRMELIN: One of the
5 suggestions that was made to me was that part of
6 the problem may have been that the -- And I'm
7 not giving this any credence and I'm not denying
8 it. I'm saying that part of the problem may be
9 that the RHU COs are primarily white and you
10 have a 60 percent or higher RHU population that
11 is black. And that sometimes the officers are
12 more suspicious of and more carefully watching
13 those who are black as opposed to those who are
14 white, who they may feel some more infinity or
15 kinship to.

16 Is that a credible, at least a
17 factor in why Johnston may not have been given
18 the scrutiny that he should have been given?

19 SECRETARY HORN: I don't think that
20 there's evidence to indicate that that's the
21 case.

22 CHAIRPERSON BIRMELIN: Okay. One of
23 the things that you did not comment on is the
24 fact that, I believe it's you and the Governor,
25 have agreed to formulate a committee outside of

1 DOC, people from other states, as a matter of
2 fact, who are doing an intensive evaluation of
3 all of our security in all of our prisons in
4 Pennsylvania.

5 Could you just give us a brief
6 comment as to where we are in that process, and
7 if it's true that -- what you're looking for
8 from them?

9 SECRETARY HORN: Yes. I asked that
10 the president of the American Correctional
11 Association, Richard Stalder, who is the
12 Secretary of Public Safety for the State of
13 Louisiana, name the panel so that it would not
14 be named by myself. The panel is made up of
15 Lane McCotter, who has a distinguished career.
16 He was the warden of the United States Military
17 Disciplinary Barracks at Fort Lebanworth,
18 Kansas; Director of Corrections in New Mexico,
19 Texas, Utah. He's chairing the panel.

20 The other members are Larry Dubois,
21 the former Director of Corrections in the State
22 of Massachusetts, and previous to that, a career
23 employee of the Federal Bureau of Prisons; Bob
24 Brown, who for six years was the Director of
25 Corrections in Michigan; and Steve Puckett, who

1 was previously Commissioner of Corrections in
2 the State of Mississippi and before that the
3 warden at Parchment Prison.

4 They will be visiting 12 of our 24
5 prisons. They will visit all of the maximum
6 security prisons. They will visit several of
7 the prototypicals. They have been asked, first
8 of all, to look at these two escapes, the
9 Huntingdon escape and the Daniel McCloskey
10 escape from Dallas, and determine whether they
11 occurred because of substantial systemic
12 problems in the Department or isolated
13 occurrences. They've also been asked to look at
14 the fundamental security practices of our
15 Department and evaluate them.

16 They are visiting these facilities.
17 They are meeting individually, with no Central
18 Office staff present, with the superintendent,
19 the staff of those facilities, union
20 representatives and at each facility five
21 inmates chosen at random in private. They are
22 inspecting those facilities. They are reviewing
23 our policies. They're going to be reviewing our
24 staff training.

25 They will be submitting a report to

1 me and to the Governor not later than January
2 31st. Their contract does provide that at the
3 direction of the Governor they will appear
4 before or meet with legislative committees once
5 the Governor has had a chance to review their
6 findings, so we hope to have that process
7 complete.

8 They're in their second week of
9 visits. They completed one week in which they
10 visited, I believe four facilities. They're
11 visiting four additional facilities this week,
12 and then they're coming back in November to
13 visit four other facilities.

14 CHAIRPERSON BIRMELIN: Thank you.
15 We are currently in the House District of
16 Representative Larry Sather, who is not on the
17 Judiciary Committee but who we have invited and
18 asked to be a part of the hearings that we have
19 here because it resides in his district. I'm
20 going to begin the questioning with letting
21 Representative Sather ask his.

22 REPRESENTATIVE SATHER: Thank you,
23 Mr. Chairman. I have many questions, but I'm
24 not going to due to the good panel here.

25 The most common asked question of me

1 from my constituents, the period of time from
2 the escape until that was acknowledged by this
3 prison community, you have testified here about
4 some of that. But again, this flesh or
5 movement, is that prescribed or is that designed
6 because of concerns others have raised about
7 unfair treatment of actually walking into a cell
8 and making sure somebody is there?

9 What's driving this? And can you
10 elaborate in a few words why, in your opinion
11 and others' opinions, what you have been able to
12 gather thus far, why it took so long?

13 SECRETARY HORN: That is an issue in
14 which we are always attempting to strike a
15 balance. It is not ever our purpose to do
16 things for the purpose of inconveniencing
17 inmates or going out of our way to make life
18 miserable, and over the years accommodations get
19 made.

20 So, for example, since 1989 the
21 Department had a policy that there would be --
22 You can do a count by requiring the inmate to
23 stand up or sit up so that you can see for sure
24 that it's him or her and that they're there.
25 Or, if the inmate is lying down, you say the

1 officer has to at least see flesh or movement.
2 And for years the policy of the Department was
3 not to require a standing count prior to 7 a.m.
4 in the morning to allow the inmates to sleep in.
5 An argument could be made that that's a
6 reasonable thing to do.

7 We have since changed the policy, so
8 now there is a count prior to the facility
9 opening up to serve its breakfast meal, which
10 means we're doing a count at around six in the
11 morning.

12 REPRESENTATIVE SATHER: When did
13 that take place? When did you --

14 SECRETARY HORN: We instituted that
15 -- we changed that policy after this escape
16 because we were basically going from 10 o'clock
17 at night until sometime after 7 a.m. without a
18 standing count.

19 The requirement for flesh or
20 movement has been Department policy of long
21 duration. Officers are trained when they come
22 to our training academy that that is the
23 requirement when doing a count, and it's part of
24 the ongoing training which they receive as part
25 of their in-service training program each year.

1 In this case, and I can pass around
2 for you copies of the officers' -- The two
3 counts that are in question here are the 5 a.m.
4 count. Prior to 5 a.m. there were supposed to
5 have been tier checks, and those are not
6 technically counts. While I believe that had
7 they been done properly, that the officers
8 should have seen Johnston playing around with
9 the security mesh screen, trying to get through
10 the window -- This didn't just happen in the
11 blink of an eye, and had they been made, I think
12 it would have been more difficult. He counted
13 on the fact that those tier checks were not
14 being made or the intervals were longer than
15 they should have been.

16 But, the 5 a.m. count, I believe,
17 should have been a flesh or movement count. By
18 policy it was a flesh or movement count. It
19 should have seen Johnston there. Now, while
20 Johnston had a dummy, and it was a good dummy,
21 it was not flesh or movement. Had that count
22 been done properly, we would have known that he
23 was gone a good five, five and a half hours
24 sooner than we did.

25 And even the 10 a.m. count, which

1 was supposed to be a standing count, was not
2 done properly. The reason for that was that,
3 historically, the inmates in the RHU refuse to
4 stand for the count, and once the inmate's in
5 the RHU, there's not a whole lot more you can
6 do. You can keep giving him paper, you can put
7 misconducts on him. For many of the inmates
8 they prefer to be in the RHU. For some inmates
9 it's a safer place to be. So, what do you do if
10 they don't stand?

11 And I think that over time, and with
12 the knowledge of middle management certainly,
13 the practice had become that they weren't
14 requiring the inmates to stand for the 10 a.m.
15 counts. So, again, we would have discovered his
16 absence sooner than we did. We discovered it at
17 about 10:30 a.m, but it should have clearly have
18 been discovered at 5 a.m.

19 I can pass around for the
20 committee's view, pictures looking into the cell,
21 and a picture of the dummy. It was a good
22 dummy. There was human hair on it. The
23 officers believed that they saw a live human
24 being in that cell. It was not flesh. There
25 was no movement.

1 REPRESENTATIVE SATHER: Thank you in
2 that regard. This one I hope we can shorten the
3 answer because I know how tied we are, but I
4 have heard from individuals inside who are COs
5 here that Johnston was to be moved by you or the
6 superintendent and he refused to be moved, and
7 had that taken place maybe this would not have
8 gone down.

9 SECRETARY HORN: Several weeks prior
10 to the escape, Johnston's status was to be
11 changed and he was scheduled not to be moved
12 from the facility, but he was supposed to be
13 moved to a different cell.

14 Occasionally, inmates refuse to move
15 and when they do that we use force. As I
16 understand the situation, the RHU lieutenant
17 made a judgment call. Rather than using force
18 and running the risk that Johnston would be
19 injured or that staff would be injured -- Now,
20 I don't think the likelihood of staff being
21 injured is great because we do equip our staff
22 well. We use a sufficient number of staff, and
23 we're pretty good at doing these cell
24 extractions.

25 But, nonetheless, the lieutenant

1 made a discretionary decision not to move
2 Johnston from the cell since the change would
3 have not resulted in him moving to a different
4 section. He was moving from administrative
5 custody to disciplinary custody. He was going
6 to remain in the RHU anyway.

7 I think that, certainly, he would
8 have made an appropriate decision if he had
9 chosen to move him, but I can't fault him for
10 choosing not to move him and avoiding the risk
11 of injury. However, having made the decision
12 not to move him, I believe that common sense and
13 good judgment should have caused an alarm to go
14 off in his head to say, why isn't this inmate
15 willing to move, and caused him to force the
16 issue of at least searching the cell more
17 thoroughly, and I think there was a failure of
18 judgment in that case.

19 REPRESENTATIVE SATHER: Thank you.

20 CHAIRPERSON BIRMELIN: My
21 counterpart on the Democratic side of this
22 committee is Representative Harold James from
23 Philadelphia. He was a little bit late in
24 arriving and did not get a chance to introduce
25 himself. So I'll introduce him and also give

1 him the opportunity to ask questions at this
2 time.

3 REPRESENTATIVE JAMES: Thank, Mr.
4 Chairman, and thank you, Commissioner, for
5 testifying. Commissioner, I just want to
6 commend you for -- I think that you acted
7 properly in terms of responding to this
8 situation. I know that either -- I think right
9 after we were going to visit another institution
10 and you were right there, and we thought that
11 you would not be able to make it but you were
12 there and you -- I think that you took the
13 responsibility that was needed and addressed it
14 in a manner which I think was appropriate.

15 One of the things that came out of
16 the escape, and I had indicated that I thought
17 that staff might have been involved, and I know
18 during these investigations you found that to be
19 true. I just think that from what I've seen
20 that it probably involves more than just the two
21 staff people that have been identified, and
22 that, of course, will come out in the
23 investigation. It just appears that it has to
24 be more people involved in this kind of a
25 situation.

1 Do you think in terms of addressing
2 that, that there is a possibility of when
3 certain people work in the same area, the same
4 place over a certain length of time, that either
5 transferring or assignments could be -- help in
6 term of alleviating some of this or transferring
7 from other institutions? Has that been
8 considered?

9 SECRETARY HORN: We've certainly
10 considered that. I think certainly with respect
11 to some posts there is definitely a good
12 argument to be made for rotation at least within
13 the facility. The jobs do become tedious. I
14 think standing in a tower eight hours a day, day
15 after day, after awhile one loses one's focus.

16 I think that with respect to the
17 officers who work in cell blocks, there are two
18 sides to that argument. There are those who
19 would argue that what you lose is, officers get
20 to know their inmates and they know whose who
21 and what's what. They get to know -- they know
22 what the life of the organism is, so they know
23 when something's amiss, so there are two sides.

24 I also think that it's probably
25 unrealistic and impractical to talk about

1 transferring officers around from institution to
2 institution. The distances are great. It would
3 be terribly unfair to families and would make
4 the job even more unattractive than it is.

5 REPRESENTATIVE JAMES: Well, I
6 wouldn't go that far, you know, like from
7 Pittsburgh to Philadelphia, but I'll just say
8 like you have Smithfield and you have here, you
9 know, officers back and forth to institutions
10 with that kind of closeness.

11 SECRETARY HORN: That's something we
12 would certainly have to negotiate. I think that
13 would be covered under the collective bargaining
14 agreement. That would be a term and condition
15 of employment that I think would have to be
16 negotiated by the state, and I suspect that it
17 would not be something easily accomplished.

18 REPRESENTATIVE JAMES: Probably not.
19 I mean, change is always hard to take until you
20 do it and find out that it works out or it
21 doesn't work out. But anyway, thanks for the
22 response.

23 The other response, I noticed that
24 in the escape here it always seems that the
25 inmate becomes real -- or that the staff becomes

1 real satisfied with the inmate. They become
2 cozy and it seems that then something happens
3 and that seemed to happen like in the Pittsburgh
4 escape; you know, that the staff became -- you
5 know, it became routine. They trusted with a
6 certain gain and then something happened.

7 I would just -- And I appreciate the
8 question that the Chairman asked earlier. It
9 seems that minorities are not in enough
10 policy-making positions within the institution.
11 I notice I don't see any here, and I just wonder
12 if there's any kind of effort on the part of the
13 administration to try to increase minority
14 policy makers in the institutions?

15 SECRETARY HORN: Yes. And let me
16 just say that, I think that while we believe
17 clearly Ruiz and Randolph were too close or
18 over-identified with the inmate, in fact, others
19 within the facility clearly were not close to
20 Johnston and were doing everything to keep their
21 thumb on him.

22 I think that we need to have a
23 diverse work force at all levels of the
24 Department, and we have tried very hard to do
25 that. The facilities are where the facilities

1 are. They are in communities where there are
2 not large representations of minority group
3 members in the general population, and it is
4 very difficult for us to recruit people from
5 cultural minorities and ethnic minorities to
6 relocate from the state's urban centers to these
7 areas.

8 Our Department has tried very hard
9 to increase minority representation at all
10 levels. We've expanded our recruiting. We've
11 changed the way we do testing. It used to be
12 that if we had openings for positions here in
13 Huntingdon, we would give the test in the
14 Huntingdon area. We now give the test statewide
15 in Philadelphia, in Harrisburg, in Pittsburgh,
16 in Altoona, throughout the state, and we
17 advertise that there are openings in Huntingdon,
18 and we encourage people to try to relocate where
19 these jobs are.

20 Additionally, we recruit in
21 predominantly minority colleges. We attend job
22 fairs in minority areas. More importantly, as
23 you know, we have provided recruiting material
24 to every member of the Black Caucus and asked
25 them to distribute it to their constituents in

1 their neighborhoods. We advertise in the
2 Philadelphia Tribune and in the Sun and in the
3 Courier in Pittsburgh. We advertise in
4 Hispanic, in Spanish-language newspapers. We
5 are doing everything that we know how to do
6 within the state's system to recruit minorities.
7 It is a struggle and we need help.

8 REPRESENTATIVE JAMES: Well, we
9 would like to offer you the help and I would
10 hope that you would talk to some of us
11 legislators in terms of trying to extend that
12 outreach, but I think that we can help on that
13 if we work together at it.

14 The final question is that, Johnston
15 going into the RHU unit, it appears that you
16 think that he possibly may have known of the
17 fact that you were getting this equipment
18 because of his relationship with some of the
19 staff people and that this was ordered? Then
20 all of a sudden he had to do this by a certain
21 time or period. Has that been checked?

22 SECRETARY HORN: Well, I think, in
23 fact, it was public knowledge that we were
24 installing the perimeter system enhancements.
25 As you know, it's not uncommon when an

1 appropriation gets made in a legislative
2 district for a press release to be issued and
3 for it to appear in the local newspapers and on
4 the local TV. So the fact that there was a nine
5 million dollar appropriation for perimeter
6 security enhancements at SCI-Huntingdon was
7 public knowledge.

8 REPRESENTATIVE JAMES: All right.
9 Thank you. And for the sake of time I'm not
10 going to ask you anymore questions. I'd just
11 like to ask the Chairman's permission that we
12 can, you know, continue our communications if
13 any questions arise that we can share.

14 SECRETARY HORN: Certainly, sir.

15 CHAIRPERSON BIRMELIN:

16 Representative Josephs.

17 REPRESENTATIVE JOSEPHS: Thank you,
18 Mr. Chairman. Thank you, Mr. Secretary.

19 We just had a power outage here.
20 We're in the prison, we're in the visitors'
21 room. Can you tell us what happened -- and it
22 was for about 20 minutes, as our Chairman just
23 indicated. Can you tell us what happened in the
24 rest of the prison? It concerns me because, I
25 understand that all of this perimeter security

1 and other security you're talking about is
2 electrically powered; is it not?

3 SECRETARY HORN: That's correct.
4 What happened was that a single breaker that
5 affects this side of this room burnt out because
6 it's not built for all the circuitry, all the
7 drain that the cameras and the microphones and
8 so on require. The rest of the facility
9 continued to operate. So it was just like
10 blowing a fuse in a section of your own home.

11 The facility -- In fact, all of our
12 facilities have back-up generators that are
13 interconnected to the facility's electrical
14 system and geared to kick in automatically if
15 there is a power outage, and those generators
16 are supposed to be checked, I believe, every
17 week and every month under load; that is, to try
18 and run the facility fully.

19 But, it's absolutely true, and among
20 our capital project requests, not at Huntingdon,
21 but at other facilities, our requests to
22 upgrade electrical systems because, unless you
23 invest in that electrical infrastructure what
24 good are all these technological systems?

25 REPRESENTATIVE JOSEPHS: Speaking of

1 the technology, I was surprised coming here to
2 see how close homes are to the prison. None of
3 the other places that I have been in
4 Pennsylvania have we had this set up. Are any
5 of these systems every tripped by civilians or
6 by, for instance, by kids, teenagers or other
7 kids running around in this area close to the
8 perimeters?

9 SECRETARY HORN: They're more often
10 tripped by animals, birds, sometimes by strong
11 winds. I think that members of the community by
12 and large know to stay away.

13 Also, the intrusion systems
14 typically are on the interior perimeter fencing;
15 not on the exterior perimeter fencing, so it
16 would not -- Although some of the systems that
17 we're putting in, we're going to have systems on
18 both in some of the new systems that we're
19 putting in.

20 REPRESENTATIVE JOSEPHS: If the
21 system is tripped by some wildlife, let's say,
22 or perhaps some nuisance animals that live here,
23 I'm sure they do because they live every place,
24 what's the response? Is there a policy on how
25 you respond to that?

1 SECRETARY HORN: Where we have
2 electronic intrusion systems we respond to every
3 alarm and investigate it and reset the system.
4 So, where we have these systems there is a
5 mobile perimeter vehicle that travels around.
6 Typically, that vehicle has what we refer to as
7 an annunciator board in it that has a map of the
8 facility and a light that shows up showing the
9 zone where the intrusion occurs and they respond
10 to that zone, and they investigate and try and
11 determine the reason for it.

12 One of the things that you try to
13 balance in these systems is the sensitivity.
14 You don't want it to be so sensitive that every
15 sparrow that lands on it sets it off. But on
16 the other hand, you want it to be sensitive
17 enough that if a small inmate tries to climb it
18 that it will go off.

19 The more false alarms you have, the
20 more staff become themselves desensitized. They
21 say, oh, it's a sparrow again. So you're always
22 trying to achieve that balance.

23 Electronic systems will never
24 substitute for the human element. I also think
25 one of the things we've learned is that, you --

1 and this is something we've started to do, you
2 need to integrate video surveillance. If you
3 have a camera system, a video camera you can
4 very quickly focus that video camera, they move
5 around, and focus right in on the area where the
6 intrusion is and immediately determine whether
7 it's a true intrusion. And typically, you can
8 respond with a camera far faster than a vehicle
9 can respond.

10 REPRESENTATIVE JOSEPHS: I take your
11 more true -- the mark that I respond to more
12 than the talk of video camera is the fact that
13 systems don't really create the security. It's
14 the personnel and the policy and the way people
15 respond to it. We looked into a cell. I mean,
16 it could have been an eye or a video camera and
17 we still had a problem. So I agree with you
18 entirely that it has to do with the human
19 element, and that you could have a system that
20 was not safe at all with all of this electronic.

21 I'm interested in policy that has to
22 do with the fact that, according to your
23 testimony, about a year before this present
24 escape, Johnston was found twice within the
25 month of August with implements which would

1 indicate clearly to anybody that he was well
2 into planning some kind of escape.

3 What policy is there with treating
4 such a person like that, and if there is policy,
5 how was that followed or not followed?

6 SECRETARY HORN: Well, where we have
7 an inmate who is an escape risk, our response is
8 to place him in administrative custody,
9 irrespective of whether he's committed a
10 misconduct violation, which puts him in what you
11 refer to as the hole or solitary confinement,
12 which we've heard so many complaints about, and
13 we keep him there as long as we consider him to
14 be an escape risk. And that was one of the
15 reasons why Johnston, in fact, spent 900 days
16 total in RHU throughout the time he's been with
17 us, nearly three years; not consecutively.

18 When in RHU status, his cell is
19 supposed to be checked every three days. He is
20 not taken out of his cell except in handcuffs,
21 always under escort by two officers. He
22 exercises individually. He only gets visits
23 through noncontact visiting. So, his
24 opportunities to escape are very, very severely
25 limited in that situation, and that was the case

1 here.

2 What no one anticipates or expects
3 is that, he can actually defeat the physical
4 security of a poured concrete building with
5 steel bars and go undetected. He didn't achieve
6 that compromise of the physical security in that
7 cell block overnight. It happened over a period
8 of weeks.

9 REPRESENTATIVE JOSEPHS: Clearly.
10 He had a car. He left here in a car. The car,
11 as I remember from press reports, it almost
12 sounded to me as if it was sitting there waiting
13 for him. Are we -- Is anybody investigating
14 that part of this escape? Do we have any
15 conclusions you can make public?

16 SECRETARY HORN: I don't investigate
17 what happens after he gets out. You'll be
18 hearing from the State Police and from the
19 District Attorney, and I'm sure they have
20 investigated that and I think they're in a
21 better position to comment on that.

22 REPRESENTATIVE JOSEPHS: Okay. I
23 have one -- just one more question. We saw here
24 this elaborate device to bring an illegal drug
25 into the system. It's a drug that has a pretty

1 distinctive odor if it's used. If it was used
2 in this system, how is it that nobody smelled
3 it, do you think?

4 SECRETARY HORN: Oh, well. Listen,
5 we find drugs lots of times. Remember, we found
6 that one. The one you saw was the one that we
7 found and intercepted. The one that may have
8 gotten into Johnston might not have contained
9 the drugs. It might have only contained the
10 screwdriver implement or the hacksaw.

11 We use K-9 teams. We use the Ion
12 (phonetic) scan, but I only have eight or nine
13 dogs for the whole system of 24 prisons.

14 REPRESENTATIVE JOSEPHS: People can
15 smell this drug when it's used.

16 SECRETARY HORN: Yes, and our
17 officers are trained in drug identification.
18 But again -- And you were in the cell block
19 yesterday. At night when the inmates are locked
20 in their cells and the officers are in the
21 patrol room, there's no officer in that area and
22 the smell can dissipate. But certainly,
23 marijuana has a distinct smell.

24 I will tell you, however, that in
25 our Department we do more testing and searching

1 for drugs than just about any corrections
2 department in the country. We did a study in
3 1995 with the National Institute of Justice that
4 found that on a random testing basis, using hair
5 samples, nearly eight percent of the inmates who
6 were tested tested positive.

7 We replicated that study in 1997 and
8 found that we had reduced that through our drug
9 interdiction efforts to almost one percent. We
10 now do nearly 6,000 random urine samples every
11 month on inmates. Over a hundred thousand tests
12 a year are performed, both random and targeted.

13 On the random testing, which is a
14 very good measure of the extent of drug use
15 among inmates, in the last year there has never
16 been more than eight-tenths of one percent
17 testing positive, and the most recent month only
18 fourth-tenths of one percent tested positive.
19 And everyone that I have heard from and every
20 person who has talked to inmates will tell you
21 that we have made it very, very -- much more
22 difficult for inmates to obtain drugs in our
23 prisons, but I've always said, there will always
24 be a certain amount leaking in.

25 But I think that in Pennsylvania we

1 should feel very good, and you've given us the
2 tools. The General Assembly has given us the
3 tools with telephone monitoring, statutes in
4 increasing the penalty for people who bring
5 contraband drugs into prisons, to wage that
6 fight and it is that one we have waged
7 successfully.

8 REPRESENTATIVE JOSEPHS: Thank you.
9 Thank you, Mr. Chairman.

10 CHAIRPERSON BIRMELIN:
11 Representative Walko.

12 REPRESENTATIVE WALKO: Thank you,
13 Mr. Chairman. Secretary Horn, in the -- For the
14 report on capacity in the prisons and crowding
15 as of September 30, 1999 indicates that our
16 system is at 145 percent of capacity. I
17 understand there are 1800 inmates here and I was
18 wondering about the capacity level here.

19 And the larger question is, is the
20 fact that by those statistics our prison system
21 is overcrowded, is that causing -- is that
22 leading to tension and problems relating to
23 these escapes; this escape, and perhaps, the
24 other one at Dallas?

25 SECRETARY HORN: On the day of the

1 escape there were 1,868 inmates here and the
2 prison capacity is 1,274. The prison was
3 46.6 percent over its designed capacity.
4 Obviously, every prison administrator would like
5 to run a system that is operating at less than a
6 hundred percent. You'd always like to have a
7 little bit of margin. And clearly, the number
8 of inmates creates strains.

9 It reduces our options for moving
10 inmates. It requires us to house two inmates in
11 a cell. It causes the state, the Commonwealth
12 to do things as it had to do in 1991, such as
13 building a housing unit like G Block and there
14 was no place to put it inside so it got built
15 outside. It causes us to make some of the
16 changes that we've made at the other prisons.
17 Clearly, I would prefer to run a system that was
18 less crowded.

19 REPRESENTATIVE WALKO: And also
20 relating to that issue and also tension in the
21 prison system, do you believe that the current
22 policy regarding parole is hurting or adding too
23 much tension to our system and even giving more
24 incentive to inmates to attempt escapes, and
25 Lord knows how many escapes are attempted that

1 don't occur. Do you think that our policy on
2 pardons; in other words, slamming the door shut,
3 is affecting your ability to run this system?

4 SECRETARY HORN: That's a difficult
5 question to answer, Mr. Walko. One way of
6 looking at it is that, the inmates who escape
7 have hope. Johnston was a guy who had a lot of
8 hope.

9 But I think, you know -- One of the
10 things you need to keep in mind, Pennsylvania
11 has the largest number of inmates serving a
12 sentence of life without parole of any state in
13 the union. I think that's a very little known
14 fact. We've got more -- You know, everybody
15 thinks that the southern states, Texas, Florida
16 have these -- In fact, the numeric number -- I'm
17 not talking about a percentage. The absolute
18 number, we have the largest number of lifers.
19 Now, that's been true in Pennsylvania for many
20 years. That didn't start today. That's always
21 been the case.

22 And even before the frequency with
23 which pardons were granted changed, it was not
24 something that happened frequently. I mean,
25 even in the best year, maybe eight inmates got a

1 pardon. So there were always -- and there were
2 always inmates who knew that it was never going
3 to be them who got those pardons.

4 An inmate serving a life term, and
5 in this case, and in the case of at least one of
6 the two inmates at Dallas and in the case at
7 Pittsburgh, the inmates are often lifers. When
8 a lifer escapes, he doesn't have a whole lot to
9 lose. As long as he doesn't kill someone,
10 however long he's out, ten days, two weeks,
11 three days, he's got a little vacation, comes
12 back, goes back to serving life.

13 REPRESENTATIVE WALKO: Regarding the
14 count, what happened here it seems like there
15 were a number of policies and procedures not
16 being followed it's clear. I was wondering on a
17 system-wide level from the perspective of the
18 central administration at Camp Hill, what is
19 being done to ensure that the systems are
20 operating? In other words, ensure that people
21 are looking at flesh or movement; ensure that
22 they're looking at bars, and ensure that if
23 there are screens with broken screws that there
24 is some follow-up. And I believe there are 23
25 institutions in Pennsylvania or 24.

1 SECRETARY HORN: Twenty-four.

2 REPRESENTATIVE WALKO: And I just
3 wonder from the central administration point of
4 view on down to the prison floor, what is being
5 done to make sure that these procedures are
6 being followed? It seems like it's their
7 failure to be -- the lack of them being followed
8 that has led to this escape and, perhaps, to
9 some degree at Pittsburgh and others.

10 SECRETARY HORN: Mr. Walko, you no
11 doubt have heard of the so-called Hawthorne
12 effect, that when workers are on a production
13 line are observed they tend to work better and
14 you don't get a good sample.

15 In fact, in Pennsylvania we do a
16 great deal of auditing and checking and
17 inspecting of our facilities far more in recent
18 years. Let me give you some examples.

19 First of all, I receive every week a
20 report from every institution from every
21 superintendent, and I brought along a copy of it
22 and it's summarized. You can just pass this
23 around and you can page through that first
24 thing. Certification from every facility
25 superintendent every week that they are in

1 compliance with every policy, with Megan's Law,
2 with the DNA rules. They report on the number
3 of searches that are performed. They report on
4 the number of telephone calls that are
5 monitored. That is received and reviewed by
6 myself and my deputies weekly.

7 My deputy secretaries are required
8 to visit each of the facilities in their region
9 on a quarterly basis. And since the Pittsburgh
10 escape in 1997, we have given each of them what
11 we refer to as an inspection lieutenant who goes
12 out and checks on those policies and appends
13 their report each quarter, and I review those
14 reports. In addition, each year we do
15 operations inspections which inspect all of our
16 facilities.

17 But, it is in the nature of audits
18 that, first of all, you spot check a
19 representative sample. Secondly, you're
20 checking records. And as in this case, if you
21 check the log at Huntingdon, it shows that the
22 cells were checked. But, unless on each day
23 you're in the cell with the officers, and I've
24 gone into cells and I've asked officers, show me
25 how you do a cell check. I've stood there while

1 they do a cell inspection. I've stood on a cell
2 block while the count is being done. And I will
3 tell you that, when I stand there, it is done by
4 the book. But I can't tell you how it's done at
5 five in the morning when I'm not there day after
6 day after day.

7 I think in the final analysis, we
8 are dependent upon the assiduousness with which
9 our staff perform their duties, and our biggest
10 challenge is to help our staff to understand how
11 important it is to do that job conscientiously
12 every time they do it, even --

13 You know, every day, every night an
14 officer working on a cell block walks around,
15 does his tier checks and nothing happens. After
16 awhile they say, well, so what if I don't do it
17 tonight?

18 REPRESENTATIVE WALKO: Thank you,
19 Mr. Secretary, Mr. Chairman.

20 CHAIRPERSON BIRMELIN:
21 Representative Manderino.

22 REPRESENTATIVE MANDERINO: Thank
23 you. Representative Walko actually asked some
24 of my questions, but let me just be a little bit
25 more specific because I'm mostly interested in

1 the human systems and not the technological or
2 equipment systems.

3 But, in the case here at Huntingdon
4 where you told us that the Morse watchman punch
5 station system that was being used showed such
6 variations that it could be done in seven
7 minutes or in 45 minutes, that is something that
8 could have or couldn't have been picked up by
9 the audits you are doing? Question number 1.

10 And more importantly, what changes
11 have been made in terms of retraining,
12 reeducation, reorientation to proper
13 departmental procedure since this discovery?

14 SECRETARY HORN: The facility staff
15 here have been instructed to monitor -- I think
16 one of the problems -- and this gets partly to
17 the overcrowding question that we were asked,
18 and I think I mentioned in my testimony the
19 workload on our facility security offices.

20 The reports that are generated from
21 this system, and I believe the system operates
22 not just in the RHU, but in other cell blocks as
23 well, the volume of data that is generated from
24 this system each night, all the officers in the
25 facility make their punches, comes out on some

1 sort of a computerized printout that goes to the
2 security office, the facility's security office
3 each day and is supposed to be reviewed there.
4 Somebody is supposed to go through it and,
5 arguably, somebody should say, gee, here's an
6 officer who's not doing his check every 30
7 minutes. It's not being done on a regular
8 basis.

9 The fact is that, the facility's
10 security office consists of a captain and a
11 lieutenant. Over the years, particularly as a
12 result -- We are the victims of our own success
13 to a certain extent. We've placed so much
14 workload on these facility's security officers
15 in terms of drug testing and the eye on scan,
16 the searching that we're doing, and a lot of
17 paperwork and documentation that, quite frankly,
18 they were not capable of going through these
19 voluminous reports in an efficient way and
20 checking on it.

21 We are reevaluating the staffing in
22 those security offices. We are also looking
23 at -- One of the things we have not done is
24 provide clerical staff, and we found captains
25 and lieutenants who were spending an enormous

1 amount of time doing clerical work rather than
2 getting out and around.

3 You know, typically, in a
4 correctional institution, at night on the 10 to
5 6 shift, it is staffed with a captain and a
6 lieutenant, and everybody else are corrections
7 officers and sergeants. One of those, either
8 the captain or the lieutenant, is supposed to
9 stay in the control center at all times while
10 the other one goes around. That means that
11 there's really one supervisor walking around
12 this entire facility. And the reality is, you
13 have to supervise people on the job, and we are
14 thin on supervision. We are attempting to
15 correct that.

16 REPRESENTATIVE MANDERINO: But on my
17 tour not only yesterday, but this summer we did
18 lots of different institution tours, not only
19 are there correction officers on each cell block
20 several, but there is always, is it a sergeant,
21 one person who's in charge of that block. Do
22 they have any responsibility in terms of how the
23 counts and watches on their station were done
24 before that data even gets submitted to a
25 central guy who is overloaded?

1 SECRETARY HORN: No, no. In our
2 system, the sergeant is a lead worker, but is
3 technically not a supervisor and has really no
4 supervisory authority over these corrections
5 officers. He or she is supposed to be the more
6 experienced officer. The lead worker is the
7 term that we use.

8 REPRESENTATIVE MANDERINO: On the
9 issue of the count and the flesh movement and
10 also the watch, if I understood your testimony
11 correctly, there were policies at Huntingdon
12 that were different and not as strict as
13 policies coming out of the Central Office. How
14 does something like that happen and what changes
15 have been made in that regard?

16 SECRETARY HORN: Well, some of it
17 happens sub rosa. I mean, the fact that -- It
18 happens at lots of levels. The one thing that
19 was the matter of greatest concern to us was
20 that they were not requiring the inmates to
21 stand for the 10 a.m. count in the RHU. Even
22 though, if you look at the papers and the
23 policies, it was required, but as a matter of
24 practice it wasn't being done because people,
25 including middle-level supervisors had just

1 given giving up on forcing the issue with the
2 inmates. The inmates had worn us down.

3 REPRESENTATIVE MANDERINO: I
4 understood that. Maybe I misunderstood the
5 testimony. I thought that on the flesh and
6 movement, or maybe it was on the watchman, that
7 what was in your books in terms of standard
8 operating procedure and what was in Huntingdon's
9 books in terms of standard operating procedure,
10 regardless of whether they were followed or not,
11 were different.

12 SECRETARY HORN: That was true with
13 respect to the count. The Department policy and
14 the overall Huntingdon policy requires that the
15 counts between 7 a.m. and 10 p.m. be standing
16 counts. Huntingdon's written RHU manual only
17 required that the 10 a.m. count be a standing
18 count.

19 REPRESENTATIVE MANDERINO: So if I'm
20 an officer, CO at Huntingdon, I'm trained on
21 what Huntingdon's, in their books and not what's
22 in your books.

23 SECRETARY HORN: Right. And what
24 I'm saying is, it goes down to level of that
25 specific housing unit, that specific RHU manual

1 is out of compliance. That is something that we
2 failed to pick up, no question. We should have
3 picked that up. We have since changed that and
4 they are in conformance, and we are making
5 inmates stand for the count in accordance with
6 Department policy.

7 REPRESENTATIVE MANDERINO: I heard
8 you refer to the training at the academy that
9 officers get in the beginning and then I heard
10 you refer to ongoing training, but I don't have
11 a sense of what that ongoing training is about.
12 Is it done on the institution level? Is it done
13 as a result of audits that we've done of this
14 institution so that they may --

15 You know, this institution, we
16 discovered, as in human systems it's apt to
17 happen, is having more problems with how they're
18 doing their count than some other institution,
19 so at this institution this year's retraining is
20 going to be on the count and at some other
21 institution it may be on some other issue. Can
22 you give me some insight?

23 SECRETARY HORN: Each institution is
24 required to provide on-site in-service training
25 each year. That training includes for every

1 corrections officer fundamentals of security and
2 inmate accountability. These courses require
3 the staff be able to comprehend the inmate count
4 system, including the fact that flesh and
5 movement must be viewed during non-standing
6 counts.

7 They also receive training on drug
8 awareness. One of the course objectives
9 includes the analysis of men to smuggle and
10 conceal drugs within an institution. They also
11 receive a mandatory annual course on
12 professionalism and ethics, which includes a
13 discussion of inappropriate relationships
14 between staff and inmates. Also, they receive
15 training on contraband and searches, instruction
16 on the nine methods in which contraband is
17 commonly introduced as well as ways to conduct
18 personal and cell searches. That is given to
19 every staff person all the time.

20 REPRESENTATIVE MANDERINO: My last
21 question--and I have concerns on both ends--
22 deals with the contraband issue and in this
23 particular case, treatment of legal mail. On
24 the one hand, we see how that can be compromised
25 in terms of smuggling in contraband. On the

1 other hand, I'm also equally concerned that we
2 don't institute a policy that then does not
3 allow people access to the legal system and
4 their legal mail.

5 What changes, if any, are you
6 contemplating or have you already made with
7 regard to how legal mail is treated within our
8 institutions?

9 SECRETARY HORN: The District
10 Attorney who is going to testify I think has his
11 own observations on this issue, and as an
12 attorney I'll defer that to him. But typically,
13 over the years the courts have required that we
14 give deference to correspondence between an
15 inmate and his or her attorney, that we not
16 interfere with their access to the courts.

17 But, when we stop to think about it
18 in the wake of this, we said, why do we give
19 such a great -- You know, there's lots of
20 privileges. There's a marital privilege.
21 There's a clerical privilege, and yet, we think
22 nothing of reading an inmate's mail between
23 himself and his spouse. Yet, we attach a higher
24 privilege to what we consider to be legal mail.

25 Additionally, one of the things that

1 occurred to us is, anything that comes in from
2 an attorney we treat as legal mail and,
3 therefore, privileged. And we treat it very
4 gingerly and go out of our way to make sure that
5 we're not reading it. So we just kind of page
6 through it to make sure that there's nothing
7 concealed. But as you saw from the example,
8 when you do that, if you hold it by the binding
9 and sort of just flip through it you're not
10 going to find the contraband.

11 As Mr. Stewart has pointed out to
12 me, this kind of an item, a legal brief, is
13 something that's been entered into the court
14 record. It's not even privileged. It's public
15 record. It's different from a letter from an
16 attorney that explains legal strategy that says
17 here's what we're going to do, here's the
18 evidence, or whatever, here's what our witnesses
19 are going to say.

20 We have done several things. We've
21 instructed our staff, of course now, to more
22 thoroughly examine all legal mail without
23 compromising the attorney-client privilege.
24 Secondly, included in a supplemental budget
25 request that we hope to be submitting to the

1 legislature will be funding for X-ray machines
2 and additional metal detectors so that we can
3 look at this stuff on a mass basis.

4 One of the problems we have is the
5 shear volume of mail. We've got 37,000 inmates.
6 That's a lot of mail coming into our prisons, so
7 we're going to need those sort of conveyor
8 belts, X-ray machines, such as they have at
9 airports, which we've never done before. Also,
10 we are considering requiring that when attorneys
11 mail things into inmates that they not be bound;
12 that they be held together with a rubber band so
13 that they can easily be inspected.

14 Also, we're going to provide inmates
15 with alternative means for their privileged
16 conversations. They can do it through telephone
17 calls. Our policy already allows collect phone
18 calls to the attorneys, or also conversations,
19 private conversations in the visiting room. We
20 give attorneys private areas to speak to their
21 clients in the visiting room, so it doesn't all
22 have to be conducted through the mail.

23 REPRESENTATIVE MANDERINO: Thank
24 you, Mr. Chairman. Thank you.

25 CHAIRPERSON BIRMELIN: I want to

1 thank you, Secretary Horn and Superintendent
2 Frank, for being here this morning with your
3 testimony.

4 SECRETARY HORN: Thank you.

5 CHAIRPERSON BIRMELIN: Our next
6 testifier is Captain Henry Oleyniczak, who is
7 the Troop Commander of the Lancaster State
8 Police barracks, and Captain Joseph Holmberg,
9 who is the Troop Commander here in Huntingdon.
10 Gentlemen, if you would please come forward at
11 this time.

12 I'm going to ask Captain Holmberg if
13 he would present his testimony first. As I just
14 indicated, he's the Troop Commander for the
15 Huntingdon Pennsylvania State Police.

16 CAPTAIN HOLMBERG: Good morning. On
17 August 2, 1999, at approximately 10:45 a.m, the
18 State Police, Troop G, Huntingdon received a
19 telephone call from personnel at the State
20 Correctional Institution at Huntingdon advising
21 a possible escape had occurred as one inmate was
22 not in his cell in the Restrictive Housing Unit.
23 Investigators from the Huntingdon Station were
24 dispatched to SCI-Huntingdon, with the primary
25 investigator arriving at 11:00 a.m.

1 At this time I'm going to ask
2 Subcommittee Chairman Harold James to conduct
3 the meeting. I'll be busy with some other
4 business for just a few minutes. Representative
5 James, would you call our next witness, please?

6 ACTING CHAIRPERSON JAMES: Thank
7 you, Mr. Chairman. Can we call the Huntingdon
8 County District Attorney, Robert Stewart?

9 MR. STEWART: Mr. Chairman, members
10 of the committee, colleagues and guests, I'm
11 Robert B. Stewart, Third, District Attorney of
12 Huntingdon County.

13 My testimony touches and concerns
14 the probable manner, whereby, Inmate Johnston
15 received the implements used by him in making
16 this escape.

17 Following Inmate Johnston's escape,
18 I consulted extensively with the Pennsylvania
19 State Police at Huntingdon, the State Police
20 Fugitive Task Force, and present and former law
21 enforcement personnel in Chester County,
22 Pennsylvania. Because of my prior service as an
23 Assistant District Attorney in Chester County, I
24 knew of the Johnstons and I know the police
25 officers and former prosecutors who worked on

1 the cases against the Johnstons in the late
2 1970's and early 1980's.

3 As a result of discussions with
4 Chester County Detective Ted Schneider and PSP
5 Corporal Doug Grimes of the Fugitive Task Force,
6 I secured letters written from Norman Johnston
7 at SCI-Huntingdon to his brother, David, at
8 another prison. Several readings of those
9 letters convinced me that they were written in
10 code. Various pieces of information I received
11 from DOC personnel, the State Police and Chester
12 County authorities were helpful and assisted me
13 in partially deciphering Johnston's code.

14 In those letters he refers to
15 various DOC employees by noncomplimentary
16 nicknames and writes about wanting to file his
17 quote, habeas corpus, unquote, before certain
18 DOC personnel retire. He also writes about
19 certain, quote, research, unquote, and quote,
20 research material, unquote, being provided by
21 the lawyer, and that's in quotes, or lawyer
22 company, also in quotations.

23 From the vantage of 20-20 hindsight
24 and information provided by DOC investigators
25 who were familiar with Johnston's behaviors in

1 prison, I came to the conclusion that the term
2 habeas corpus in those letters actually meant a
3 breakout escape. Research material meant
4 implements of escape, and lawyer or lawyer
5 company meant someone on the outside who was
6 sending escape tools into the prison.

7 I then personally searched the
8 property of Inmate Johnston and some of his
9 associates to see if I could find additional
10 clues as to how the escape implements got into
11 SCI-Huntingdon, or once inside, how they got to
12 Inmate Johnston.

13 The investigations of the State
14 Police, the DOC investigators, along with my own
15 work have convinced me that there were a group
16 of inmates who, along with Inmate Johnston,
17 arranged to move various implements from various
18 locations inside SCI-Huntingdon and ultimately
19 to Inmate Johnston.

20 SCI employees do not appear to have
21 been the manner in which these implements got
22 inside. One of Johnston's associates received
23 legal mail from one of the Johnston's lawyers on
24 the same day that Norman Johnston wrote to his
25 brother that he received research from the

1 lawyer company. This particular inmate received
2 legal mail supposedly from this lawyer on two
3 occasions.

4 I personally checked the logs of
5 legal mail that go into the institution. There
6 is no way, looking at those records, that you
7 can determine whether or not the legal mail is
8 actually from a lawyer. What happens is, the
9 items are written down on a form as to where
10 they are from. The envelopes are not kept, but
11 then that probably wouldn't be possible. But in
12 these days of computers, when you can do
13 envelopes from anyone, there is no way that a
14 corrections officer or a mail room staff person
15 receiving that mail can know that that's real
16 legal mail.

17 I personally know the lawyer from
18 whose office this legal mail was purportedly to
19 have been sent. I checked with the Attorney
20 General's office and the DA's office which
21 convicted this inmate associate of Johnston, and
22 I was not able to find any connection between
23 this lawyer and this particular inmate, and
24 that caused me to be suspicious of these pieces
25 of legal mail.

1 Inmate Johnston had previously used
2 a legal brief as a method of smuggling drugs and
3 escape tools last year, and you've seen that. A
4 search conducted by me of this associate's
5 property revealed 36 pages of paper, supposedly
6 legal materials which were hot glued together
7 and were ripped out of a plastic binder. Those
8 36 pages contained the same material that
9 Johnston used in smuggling -- in his smuggling
10 the year before.

11 Although I do not have sufficient
12 evidence to take into a courtroom against other
13 persons at this time, I am convinced that some
14 of the escape implements used by Inmate Johnston
15 were mailed into SCI-Huntingdon by someone
16 probably using or making an attorney's envelope,
17 and mailing a fictitious brief. The brief
18 containing these implements was handed over to
19 the associate with the contraband hidden inside
20 the pages which were bound and glued together.
21 Once inside the prison, this material was moved
22 by inmates or possibly staff, or both, until it
23 reached its destination, Inmate Johnston.

24 Under the present regulations,
25 inmate legal mail can be opened in the presence

1 of the inmate recipient and examined for
2 contraband, then handed over to that inmate.
3 Legal mail cannot be read by DOC personnel. In
4 my opinion, if that mail had been read, even in
5 a cursory fashion, almost anyone would have seen
6 that this brief was legal nonsense, and upon
7 further investigation, these escape tools might
8 have been discovered.

9 I have included with my testimony
10 copies of pages from Johnston's associate's
11 property and copies of pages from the brief
12 Johnston used in 1998, and you can see when you
13 examine these pages that they are legal
14 nonsense. They do not flow together. They are
15 not a part of a legal argument. It is simply
16 miscellaneous papers put together in no
17 particular order.

18 Because I am continuing to
19 investigate, along with the Pennsylvania State
20 Police, the involvement of other persons in
21 Inmate Johnston's acquisition of escape
22 materials, I am not willing today to identify
23 further the subjects of my investigation.

24 I do recommend that the regulations
25 governing legal mail be amended to assure that

1 legal mail for inmates is coming from legitimate
2 legal sources and that inmates' proper access to
3 lawyers and legal materials is not being used as
4 a method of smuggling contraband.

5 Briefs and transcripts, which are
6 not confidential and are matters of public
7 record, should be able to be read by
8 appropriately trained staff. No legal material
9 sent to any inmate needs to be bound. Inmate
10 mail should be able to be x-rayed or
11 fluoroscoped.

12 After my service in the Chester
13 County DA's office, I came home to Huntingdon
14 and was a defense attorney here for 16 years,
15 including 10 years in the Public Defender's
16 Office in service as Chief Public Defender.
17 During that time I represented many inmates
18 charged with crimes at SCI-Huntingdon and
19 Smithfield and handled many parole cases at both
20 institutions.

21 I recite this experience so that you
22 will understand that lawyers would not send
23 confidential materials into inmates in briefs or
24 transcripts. These types of things are filed in
25 courts of record and are available for

1 prosecutors and the public, in general, to read.
2 The changes that I support will not diminish the
3 procedural and substantive rights that any of
4 our citizens, including inmates, have.

5 This escape occurred as a result of
6 a serious and concerted effort by a group of
7 inmates. To the extent that law enforcement in
8 this county can secure credible evidence against
9 all persons involved, all legally appropriate
10 prosecution will be filed and brought to
11 completion.

12 To the extent that your committee
13 has oversight over the statutes and regulations
14 that govern state prisons, I recommend that you
15 consider the changes that I have proposed, as
16 well as the changes in the law recommended by
17 Secretary Horn.

18 Once Johnston effected his escape,
19 the response of state, local, and federal law
20 enforcement was immediate and direct. Although
21 Johnston got away from two park police officers,
22 the relentless pressure put on both him and his
23 associates led directly to his apprehension. I
24 became personally aware of a great volume of
25 information which went to the Fugitive Task

1 Force first at Huntingdon, then in southern
2 Chester County, including information developed
3 by the state police here, by my office and by
4 DOC investigators.

5 In my opinion, SCI-Huntingdon has
6 been and generally is a well-run, well-
7 administered prison. The people who work here
8 take great pride in their professionalism and
9 sincerely regret the combination of factors
10 which led to this escape, some of those factors
11 such as the inmate legal mail rules being beyond
12 their ability to control. No prison is escape
13 proof. When escapes have occurred, the response
14 of law enforcement in Huntingdon County has been
15 swift and usually effective. It will continue
16 to be so.

17 In conclusion, I wish to thank you
18 for this opportunity to testify, and I will
19 answer questions to the extent that I can.

20 ACTING CHAIRPERSON JAMES: Thank
21 you, District Attorney. You have an extensive
22 background in terms of practice that I think is
23 very good.

24 In your review, as we get the
25 questions together, in your review so far, have

1 you made or submitted any suggestions as it
2 relates to legal mail yet to any DOC officials?

3 MR. STEWART: I've discussed the
4 recommendations that I brought to you with
5 Secretary Horn.

6 ACTING CHAIRPERSON JAMES: Thank
7 you. Representative Walko.

8 REPRESENTATIVE WALKO: Thank you,
9 Mr. Chairman. Mr. Stewart, at what stage is the
10 escape prosecution? I'm a little confused about
11 that.

12 MR. STEWART: The escape charges
13 have gone to a preliminary hearing, prima facie
14 case was held. Mr. Johnston is on a regular
15 schedule for formal arraignment, which will take
16 place probably within 45 days. When the actual
17 trial will be is another story altogether. That
18 will depend on what my colleague on the defense
19 side does in terms of pretrial motions and that
20 sort of thing.

21 REPRESENTATIVE WALKO: Is there any
22 evidence of complicity of anyone owning or
23 having access to the automobile that was taken?
24 Is there any indication --

25 MR. STEWART: Are you asking me if

1 the victim of the theft was involved?

2 REPRESENTATIVE WALKO: Yes.

3 MR. STEWART: No. No, he was not.

4 REPRESENTATIVE WALKO: That's all.

5 Thank you.

6 ACTING CHAIRPERSON JAMES: Thank
7 you. Representative Josephs.

8 REPRESENTATIVE JOSEPHS: I think
9 that my questions were covered. Thank you.
10 Thank you, Mr. Chairman.

11 ACTING CHAIRPERSON JAMES: Chief
12 Counsel Preski.

13 MR. PRESKI: Mr. Stewart, my
14 questions just simply go back to your proposal,
15 I guess, for the legal briefs. It's my
16 understanding that the reason why DOC has the
17 regulations all come out of court cases where
18 they've been sued for either looking at the
19 legal mail or they've done other things and then
20 there's been a lawsuit, and you get an order
21 from a judge that now says you can't read it.

22 I saw that you were here for the
23 Commissioner's testimony. Do you think
24 something like the X-ray machine will provide
25 the adequate security? I just seem to think it

1 might be hard to be able to train a corrections
2 officer to be able to look at a brief and say,
3 okay, this is nonsense, this is good, when
4 they're looking at what the Commissioner says
5 are thousands of pieces of mail a day.

6 MR. STEWART: I agree that it may be
7 difficult. I don't think you actually have to
8 sit down and read every legal brief. When you
9 look at the excerpts that I provided to you, and
10 these are representatives, and you see that
11 there is no connection between one page and the
12 next. You'll see that this was not a real
13 brief. It doesn't take a rocket scientist to
14 understand that.

15 Now, do I think the fluoroscope or
16 an X-ray machine will help? Sure it will help.
17 Do I think that not putting these things in
18 binders will help? Sure I think it will help.
19 But, I don't think there's any machine or
20 technology that takes the place of a sensible
21 human being taking a look at this stuff.

22 When you rely on the toys, when you
23 rely on the gadgets, you stop using your brain,
24 and the best piece of security, the best
25 security instrument we have at this institution

1 is the lump of brain matter between every
2 officer's ears. Now that's what I think people
3 ought to be doing instead of relying on
4 technology. I think they ought to be using
5 their brains.

6 MR. PRESKI: Thank you.

7 ACTING CHAIRPERSON JAMES: Did they
8 determine--and maybe I missed it--that when the
9 report of -- the report of the car theft was
10 reported to the State Police prior to the report
11 of the prison escape; is that correct?

12 MR. STEWART: That's right. The car
13 theft was reported at 6 o'clock, or thereabouts.
14 The prison escape wasn't determined, as I
15 understand it, until somewhere around 10:40.

16 ACTING CHAIRPERSON JAMES: And there
17 was no -- Was there any discussion from the
18 police or to the police to the prison as to, is
19 there anything wrong that you may be aware of?

20 MR. STEWART: With the car theft?

21 ACTING CHAIRPERSON JAMES: Yes.

22 MR. STEWART: I don't believe that
23 there was. I don't believe that the car theft
24 in the immediate area of the prison triggered a
25 police response to say, did somebody escape? We

1 have car thefts in Smithfield on occasions other
2 than when prisoners escape from SCI-Huntingdon
3 or Smithfield.

4 ACTING CHAIRPERSON JAMES: Any other
5 questions from the committee? (No response).
6 Thank you, Mr. District Attorney.

7 Next witness is Michael Fox, Council
8 Director of AFSCME, District Council 89.

9 MR. FOX: My name is Michael Fox.
10 I'm AFSCME's Council Director of District
11 Counsel 89.

12 MR. DIEHL: I'm Robert Diehl. I'm
13 the president here of SCI-Huntingdon for the
14 local union.

15 MR. FOX: Good afternoon. As I said
16 my name is Michael Fox. I'm the Council
17 Director of AFSCME District Council 89. I'm
18 here on behalf of approximately 10,000 AFSCME
19 members who work in the Department of
20 Corrections and the Department of Public Welfare
21 Forensic Units across Pennsylvania.

22 I'll begin by addressing a question
23 that was asked to me by a reporter following the
24 escape at Dallas. He asked me if I believe that
25 the recent escapes at Dallas and Huntingdon

CERTIFICATE OF SERVICE

I, John O. J. Shellenberger, hereby certify that Testimony from Hearing on Inmate Escape has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of Testimony on Inmate Escape was mailed on March 30, 2007, by first class mail, postage prepaid to:

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